

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF DELAWARE

JOE GANO,)
Plaintiff,)
v.) No. 1:07-cv-00271
DONALD MARK EHART and)
SPREAD EAGLE, INC., a Delaware)
Corporation, formerly known as Red)
Eagle Avionics, Inc.,)
Defendants)

AFFIDAVIT OF JOHN D. WALLEN, ESQUIRE

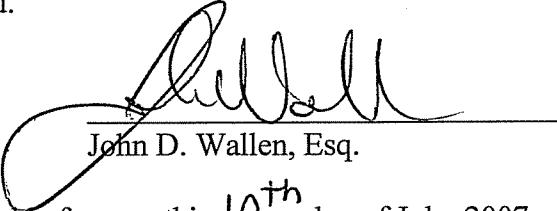
STATE OF DELAWARE :
: SS
COUNTY OF NEW CASTLE :

I, John D. Wallen, Esq., being duly sworn, depose and state that:

1. I am attorney in good standing, admitted to practice law in the State of Delaware and in the United States District Court for the District of Delaware.
2. On May 18, 2007, I reviewed a DNS Report and saw that the above captioned matter had been filed.
3. On or about May 21, 2007, I spoke with Defendant Mark Ehart to alert him of the suit and to inform him that he would be served with the Complaint.
4. On May 31, 2007, Mr. Ehart was served with the Complaint. Soon thereafter, Mr. Ehart contacted me to engage the services of Cross & Simon LLC and to forward a copy of the Complaint. At the time, I mistakenly believed that the firm had been served or would be served with a courtesy copy of the Complaint, due to the entry of appearance of this firm in the related action in the Court of Chancery of the State of Delaware.
5. On or about June 25, 2007, I realized I had not received the Complaint. I immediately contacted Plaintiff's counsel, Sophia Siddiqui, to request a copy of the Complaint. I believed I made clear that this firm would be representing Mr. Ehart in this action, that I needed a courtesy copy of the Complaint, and that I would be filing a response shortly. I believed that plaintiff's counsel would not seek a default without further notice to Cross & Simon, LLC.

6. Opposing counsel delivered a copy of the Complaint to Cross & Simon LLC on June 25, 2007. I was out of the office from the afternoon of June 25 through June 28 (I was moving from my prior residence to a new residence), and did not see the Complaint until I returned on June 29, 2007.

7. Plaintiff filed the Motion for Judgment by Default on June 27, 2007. Plaintiff did not serve the Motion for Judgment by Default on Cross & Simon LLC, notwithstanding that I had contacted Ms. Siddiqui on June 25, 2007. Immediately upon learning of the Motion for Judgment by Default, I contacted counsel for the Plaintiff and requested that the Motion be withdrawn. Plaintiff's counsel refused.



John D. Wallen, Esq.

Sworn to and subscribed before me this 10th day of July, 2007.



Nicole M. O'Brien
Notary Public:
My Commission Expires: 10/19/2010